

REMARKS

This Amendment is being filed concurrently with a Request for Continued Examination (RCE). With this Amendment, Applicant amends claims 9, 10, 25, and 26. No new matter is added. Claims 9-26 are all the claims currently pending in the present application. Based on the foregoing amendments and the following remarks, Applicant respectfully requests reconsideration of the application and allowance of the claims.

I. Rejection Under 35 U.S.C. § 103(a)

Claims 9-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hahn et al. (U.S. Patent No. 6,188,949 B1; hereinafter “Hahn”) in view of Lemelson et al. (U.S. Patent No. 6,553,130 B1).

Claim 9, as amended recites, *inter alia*, “[a]n operable device to be used in a vehicle, wherein *at least one sensor* is present *in the vehicle*, the device comprising: an operating panel through which a user can cause at least one of producing existing operating states or changing existing operating states of the operable device; and a decision unit, coupled to the operating panel, which receives data from said *at least one sensor* for determining vehicle-specific conditions over a time period of vehicle operation by evaluating the received *sensor* data and which converts the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle and blocks or releases the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous on a basis of the driving profile.”

Applicant respectfully submits that the combination of Hahn and Lemelson does not teach or suggest all of the above features of claim 9. In contrast to claim 9, Hahn, alone or in combination with Lemelson, at best, discloses any driving profile therein merely represents data “recorded during one or more several previous drives on the same driving route,” and not from the actual driving conditions measured from any sensor in a vehicle, as required by claim 9. (See Col. 5, lines 35-45 of Hahn) (emphasis added) As such, Hahn (alone or in combination with Lemelson) fails to teach or suggest at least “a decision unit, coupled to the operating panel, which receives data from said *at least one sensor* for determining vehicle-specific conditions

over a time period of vehicle operation *by evaluating the received sensor data* and which converts *the vehicle-specific conditions* into a driving profile indicating an actual driving situation of the vehicle ...,” as required by claim 9.

The Examiner correctly concedes that Hahn does not teach or suggest all of the features of claim 9. However, the Examiner relies on Lemelson to make up for the deficiencies of Hahn. Applicant respectfully disagrees and submits that Lemelson does not make up for what Hahn lacks. Applicant notes that the Examiner merely relies on Lemelson, as disclosing “blocking or releasing the existing operating states of an operable device according to whether the actual driving situation is dangerous or non-dangerous.” (See pgs. 2-3 of the Office Action) However, nowhere in Lemelson, individually or in combination with Hahn, is there any mention, teaching or suggestion relating to determining vehicle conditions over a time period of vehicle operation by evaluating received sensor data driving profile that is representative of data derived for a sensor in a vehicle, which converts the vehicle-specific conditions into a driving profile, as required by claim 9.

For at least the foregoing reasons, the combination of Hahn and Lemelson is deficient and does not teach or suggest all of the features of claim 9. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of independent claim 9 and its dependent claims 11, 13, 15, 17, 19, 21 and 23.

Since claims 10, 25 and 26 contain features that are analogous to, though not necessarily coextensive with the features recited in claim 1, Applicant submits that claim 10 and its dependent claims 12, 14, 16, 18, 20, 22 and 24 as well as independent claims 25 and 26 are patentable at least for reasons analogous to those submitted for claim 1.

II. Conclusion

In view of the foregoing remarks, Applicant respectfully submits that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Miller is encouraged to contact Applicant’s undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

Appl. No.: 09/621,085
Amdt. dated October 17, 2007
Reply to Office Action of 07/17/2007

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Cory C. Davis/

Cory C. Davis
Registration No. 59,932

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Atlanta Office (404) 881-7000
Fax Atlanta Office (404) 881-7777

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON October 17, 2007.

LEGAL02/30560525v2